



## INDIANA EDUCATION EMPLOYMENT RELATIONS BOARD

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### **Guide to Public Hearing and Public Meetings**

The Indiana Education Employment Relations Board is a neutral agency that oversees relations between public school teachers and the schools they serve. IEERB staff has compiled the following information on the public hearing under Indiana Code Section 20-29-6-1, and public meetings requirements under Indiana Code Section 20-29-6-19 as guidance only. **IEERB cannot provide legal advice; nor does this guidance bind IEERB in any way.** This guidance is not intended to take the place of a careful review of Indiana Code Sections 20-29-6-1 and 19 or as a substitute for legal advice. Questions may be sent to [Questions@ieerb.in.gov](mailto:Questions@ieerb.in.gov).

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## I. Introduction

In 2019, Indiana Code §§ 20-29-6-1 and 19 were amended to require the following for collective bargaining:

- A. Before formal collective bargaining, the parties must hold a public hearing and take public testimony regarding teacher compensation.
- B. A public meeting prior to the public meeting necessary to ratify the collective bargaining agreement (CBA).
- C. That public comment be taken at the school employer's ratification meeting.

In 2021, Indiana Code §§ 20-29-6-1 and 19 were amended to allow electronic participation in the public hearing and public meetings. In addition, parties were required to include in their CBA an attestation of the dates of the public hearing and public meetings and whether members of the public were allowed to participate electronically.

The timeline for formal collective bargaining did not change – it starts September 15 and ends November 15. If the parties have not reached an agreement by November 15, IEERB is statutorily required to declare an impasse. Therefore, careful planning will be necessary to ensure that the public hearing and public meetings are held within the time frames required by law.

Much of Indiana Code §§ 20-29-6-1 and 19 overlaps with the requirements of the Open Door Law (ODL) found in Indiana Code § 5-14-1.5. The Indiana Public Access Counselor (PAC) provides guidance on the requirements of the ODL on its [website](#) and has provided an in-depth [Handbook on Indiana's Public Access Laws](#).

## II. Public Hearing

The school employer and the exclusive representative may not formally bargain until the parties have held a public hearing and allowed public testimony regarding teacher compensation.

- **Date:**
  - The public hearing should not take place prior to the expiration of the current CBA.
  - The hearing may take place before, on, or after September 15.
  - However, no bargaining can occur on or after September 15 without holding a hearing.
- **Place:** The public hearing should be held through a means large enough to accommodate the number of attendees that the parties reasonably expect to attend. The location of the public hearing can be in-person and/or electronically.

- **Hosts:** One representative from both the school employer and the exclusive representative must host the public hearing. The governing body of the school employer is not required to host the public hearing; however, the parties should have a mechanism to provide the public testimony to the school employer's governing body.
- **During the meeting:** At the public hearing, the parties must take public testimony to discuss matters relating to collective bargaining in the school. The school employer and/or the exclusive representative do not need to comment or answer questions. The public testimony can be written or oral.
- **Notice:** Written notice must be provided to the public. IEERB recommends that notice be consistent with the [Open Door Law](#). [Sample notice below](#).
- **2 year-CBAs:** Parties that do not reopen a two-year contract for bargaining in the second year of the budget biennium do not need to hold a public hearing in the second year of the contract.
- **Public testimony:** The parties must allow public testimony. The parties may not restrict the substance of comments but may restrict the length. IEERB strongly encourages the parties to develop a policy to outline the procedures of public testimony.

### III. **Public Meeting to Discuss the Tentative Agreement (TA Meeting)**

After the parties have reached a tentative agreement, the school employer must hold a public meeting to discuss the tentative agreement (hereinafter "TA meeting").

- **Date:** This public meeting cannot take place until the parties have a TA.
- **Place:** The TA should be held through a means large enough to accommodate the number of attendees that the parties reasonably expect to attend. The location of the TA meeting can be in-person and/or electronically.
- **Hosts:** The governing body of the school employer.
- **During the meeting:** At the TA meeting, the governing body of the school employer must discuss the terms of the TA.
- **Notice:** 72 (calendar) hours' notice and the TA must be posted on the school employer's website. The school employer must also provide notice consistent with the [Open Door Law](#). [Sample notice below](#).
- **2 year-CBAs:** Parties that do not open a two-year contract for bargaining in the second year of the budget biennium do not need to hold a TA meeting.

### IV. **Ratification Meeting**

The school employer's ratification meeting of a teacher CBA must be held at least 72 (calendar) hours after the TA meeting and must include public comment.

- **Date:** The school employer's ratification meeting cannot take place until 72 (calendar) hours after the TA meeting.

- **Place:** The public hearing should be held through a means large enough to accommodate the number of attendees that the parties reasonably expect to attend. The location of the ratification meeting can be in-person and/or electronically.
- **Hosts:** The governing body of the school employer.
- **During the meeting:** The governing body of the school employer must take public comment before ratifying the teacher CBA.
- **Notice:** The school employer must provide notice consistent with the [Open Door Law](#). [Sample notice below](#). IEERB also recommends that the school employer provides 72 (calendar) hours' notice on the school employer's website.
- **2 year-CBAs:** Parties that do not open a two-year contract for bargaining in the second year of the budget biennium do not need to hold a ratification meeting.

#### V. **Attestation**

In 2021, H.E.A. 1549 was enacted to, in part, require parties to include an attestation in their CBA that includes dates of the public hearing and TA public meeting and whether electronic participation was permitted. [Sample attestation below](#).

#### VI. **Non Compliance**

Not complying with these requirements could result in a complaint filed with the PAC, an unfair labor practice (ULP) with IEERB, or a finding of non-compliance in the compliance report. If both a complaint with the PAC and a ULP are filed, IEERB will stay its ULP until the PAC issues its advisory opinion. See [IEERB Nonrule Policy Document No. 2019-3](#).

Anyone can file a complaint with the PAC for failing to meet the requirements for a public meeting under the [Open Door Law](#). Guidance on how to file a complaint with the [Open Door Law](#) can be found at the website for the PAC, <https://www.in.gov/pac/>.

A ULP filed with IEERB can only be filed by a school employer or a school employee who believes that the employer or employee is aggrieved by an unfair practice. An unfair practice is defined, in part, as a failure to comply with any provision of Indiana Code § 20-29. Therefore, any complaint filed with IEERB alleging a failure to comply with the public hearing requirement of Indiana Code § 20-29-6-1 or the public meeting requirements of Indiana Code § 20-29-6-19 will be treated as a ULP case. Guidance on ULPs and how to file one can be found on the [ULP](#) page of IEERB's website.

#### VII. **FAQs**

- What about holidays under ODL?
  - ODL lists the holidays under which notice does not count toward the 48 business hours' notice for purposes of the TA and ratification meetings. November 11, 2021, is a holiday under ODL in which many school corporations still hold school.

- Do I have to take public testimony or comment at the public meeting to discuss the TA?
  - No, but the school corporation may take it.
- Who decides on the time and place of the public hearing?
  - The exclusive representative and the school employer jointly determine the time and place of the public hearing.
- What is the exclusive representative's involvement in the public meeting and the ratification meeting?
  - The exclusive representative may be present at these meetings but is not a host. The exclusive representative will hold its own ratification meeting.
- What happens if we do not accomplish these steps?
  - Depending on which steps are not accomplished, there could be a complaint filed with the Public Access Counselor, in court, or an unfair labor practice filed with IEERB.
- What do we do at the public hearing that we hold before we can formally bargain?
  - The exclusive representative and the school employer are required to take public testimony. The exclusive representative and the school employer may, but are not required to, make any statements.
- What is the school board action at the public meeting?
  - Discussion of the TA.
- Can these public meetings be part of regular board meetings?
  - Yes, as long as the additional requirements (e.g., public comment) occur.
- Can the school employer ratify a CBA before taking public comment?
  - No.
- Any best practices you recommend?
  - Schedule meetings early and develop a policy for these meetings.

## VIII. **Sample Notices**

### Sample Notice For Public Hearing

Public Hearing of the Best Teacher Union and Best School Corporation

September 20, 2020

7:00 p.m.

Board Room, 123 Best School Corporation Way, Bestopolis, Indiana

Electronic participation: <https://indiana.webex.com/join/bestschoolcorp>.

Access Code: 123456789

Public testimony will be taken at this meeting pursuant to Indiana Code 20-29-6-1(a).

Sample Notice for Public Meeting

Public Meeting of the Best School Corporation

October 15, 2020

7:00 p.m.

Board Room, 123 Best School Corporation Way, Bestpolis, Indiana

Electronic participation: <https://indiana.webex.com/join/bestschoolcorp>.

Access Code: 123456789

The School Board will meet to discuss the terms of the tentative agreement of the teacher collective bargaining agreement, which is posted at [www.bestschoolcorp.org](http://www.bestschoolcorp.org)

Sample Notice for Ratification Meeting

Public Meeting of the Best School Corporation

November 1, 2020

7:00 p.m.

Board Room, 123 Best School Corporation Way, Bestpolis, Indiana

Electronic participation: <https://indiana.webex.com/join/bestschoolcorp>.

Access Code: 123456789

Public comment will be taken at this meeting pursuant to Indiana Code 20-29-6-19(c)

**IX. Sample Attestation**

Include the following right before the signatures on the CBA:

The undersigned attest to the following:

1. A public hearing was held on [date of public hearing] [in compliance with § 20-29-6-1(b)], and electronic participation from the parties and/or public [was/was not] permitted; and
2. A public meeting was held on [date of TA meeting] [in compliance with I.C. § 20-29-6-19] to discuss the tentative agreement and electronic participation from the governing body and/or public [was/was not] permitted.

### **Public Meeting and Public Hearings Checklist**

#### **Public Hearing (Ind. Code § 20-29-6-1)**

- ☐ Before the first meeting of formal collective bargaining
- ☐ Hosted by a representative of the school employer and the exclusive representative
- ☐ Room reserved large enough to accommodate the number of expected attendees
- ☐ Public testimony allowed
- ☐ Notice provided to the public. Recommended: notice pursuant to [Open Door Law](#).  
Remember: November 11, 2021 is a holiday.
- ☐ Method for preserving public testimony to provide to school employer's governing body  
(Recommended: Record the hearing)
- ☐ Recommended: Policy created that outlines procedures for taking public testimony

#### **Tentative Agreement Meeting (Ind. Code § 20-29-6-19)**

- ☐ Tentative agreement reached
- ☐ Tentative agreement posted on the school's website 72 hours before the meeting
- ☐ Meeting hosted by the school board
- ☐ School board discusses the tentative agreement
- ☐ The notice must be made pursuant to [Open Door Law](#). In addition, notice and the TA must be posted at least 72 (calendar) hours and 48 business hours before the meeting.  
Remember: November 11, 2021 is a holiday.
- ☐ Room reserved large enough to accommodate the number of expected attendees.

#### **Ratification Meeting (Ind. Code § 20-29-6-19)**

- ☐ Held at least 72 hours after the TA Meeting
- ☐ Hosted by the School Board
- ☐ Public comment allowed
- ☐ Policy created that outlines procedures for taking public comment
- ☐ Notice made pursuant to [Open Door Law](#). Remember: November 11, 2021 is a holiday.  
Recommended: 72 calendar hours' notice
- ☐ Room reserved large enough to accommodate the number of expected attendees.
  
- ☐ Attestation language included in CBA
- ☐ Ratified CBA uploaded on Gateway